S.B. CIVIL MISC. APPEAL NO.1016/2006.
(United India Insurance Co. Ltd. Vs. Smt. Gayatri Devi & Ors)

Date of Order :: 20.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Jagdish Vyas, for the appellant.

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Heard learned counsel for the appellant and perused the impugned award.

The insurer of the offending vehicle bearing registration number RJ 19 G 9785 that caused a fatal accident having been accorded permission under Section 170 of the Motor Vehicles Act, 1988 to contest the claim application seeks to question the quantum of compensation of Rs.6,95,000/- together with interest at the rate of 9 per cent per annum awarded by the Motor Accidents Claims Tribunal [Additional District Judge (Fast Track) No. 4], Jodhpur in its award dated 05.05.2005 made in Claim Case No. 500/2004 to the dependants of the victim Girdhari Singh (40 years) who was earning about Rs.66,000/- per annum as a truck operator.

The Tribunal while quantifying compensation has referred to the income tax returns of the deceased Ex.24 and Ex.25 showing his annual income at Rs.67,000/- and Rs.66,000/- respectively. The Tribunal has adopted the income figure given out in the return Ex.25 at Rs.66,000/- per annum

and after deducting one-third on personal expenditure of the deceased and applying a multiplier of 15, has assessed pecuniary loss at Rs.6,60,000/-. The Tribunal has allowed Rs.30,000/- towards non-pecuniary loss for the wife, four children and mother of the deceased and further Rs.5,000/- towards funeral expenses to award compensation in the sum of Rs.6,95,000/- and has allowed interest @ 9% per annum from the date of filing of the claim application.

The insurer contends that the compensation for loss of life cannot be weighed in golden scales and that it must be just compensation and cannot be a bonanza. According to the appellant-insurer, the deceased was earning as a truck operator and was owner of two trucks; and that the trucks were being plied through drivers and the family was getting the income therefrom, therefore, even after demise of the victim, total loss of income cannot be assumed and the Tribunal was not justified in assessing the loss of dependency to the tune of Rs.44,000/- per annum. Further, according to the appellant-insurer, choice of multiplier of 15 is on the higher side and so also of the rate of interest at 9% per annum.

Having examined the award in its totality, this Court is satisfied that this appeal by the insurer remains bereft of substance and does not merit admission.

During the course of submissions learned counsel appearing for the insurer candidly submitted that the income tax returns relied upon by the Tribunal were of course submitted by the deceased during his lifetime. There is obviously no scope for disputing the income of the deceased at least at Rs.66,000/- per annum. The Tribunal has of course not provided for a component of some part of the income retaining itself to the claimants in the form of the operational trucks left by the deceased, however, at the same time the Tribunal has not provided for any component towards some likely future growth in income in view of the age of the deceased only at 40 years. Moreover, the dependents of the deceased are shown to be his wife, 36 years in age, four children respectively in 18, 16, 14 and 12 years of age and the mother, 65 years in age. In view of the family set up and the responsibilities of the deceased, deduction of one-third on his personal expenditure definitely stands higher than reasonable. With a comparatively larger family of the deceased consisting of seven persons including himself to maintain, obviously, in such case, unit method of assessment of loss of contribution could have been adopted; and in any case, personal expenditure of the deceased ought not to have taken more than 25% of his income.

In the aforesaid view of the matter, this Court is satisfied that even though the Tribunal has not provided for a component of some portion of the income retaining itself to the

claimants, higher side deduction on personal expenditure and totally ignoring future growth prospects effectively sets off the element of retained income and the assessment of loss of contribution at Rs.44,000/- per annum does not appear excessive. Moreover, the age of the deceased has been shown at 40 years but not above 40 years and yet, the Tribunal has put his age in the bracket of 40-45 years to apply a multiplier of 15. In the ultimate analysis, assessment of pecuniary loss at Rs.6,60,000/- cannot be said to be excessive or of bonanza as sought to be asserted by the appellant-insurer in this appeal. Non-pecuniary loss has also been awarded moderately. Of course the interest has been awarded @ 9% per annum and in the award made in the year 2005, the same appears a bit on the higher side but in the overall circumstances and with a moderate award made by the Tribunal such choice of rate of interest does not appear grossly disproportionate to a reasonable rate and does not require interference at the instance of the appellant-insurer.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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